

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LAWRENCE DUECASTER,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 24-1120
)	Judge Nora Barry Fischer
)	Magistrate Judge Kezia O.L. Taylor
PRIME CARE MEDICAL, INC., JENNIFER)	
FRALEY, MAC MCDUFFIE, JOHN DOES,)	
PETER ACKER,)	
)	
Defendants.)	
)	

ORDER OF COURT

AND NOW, this 14th day of February, 2025, upon consideration of the Report and Recommendation filed by U.S. Magistrate Judge Kezia O.L. Taylor on January 30, 2025, (Docket No. 12) recommending that the Motion to Dismiss filed by Defendants Peter Acker and Mac McDuffie be granted, as specified therein, and directing that any objections be filed by February 13, 2025, and no objections having been timely filed by the date of this Order, and upon independent review of the record including the briefing as to the Motion to Dismiss, (Docket Nos. 7, 10, 11), and de novo consideration of the Magistrate Judge's Report and Recommendation, which is ADOPTED as the opinion of this Court,

IT IS HEREBY ORDERED that Defendants Peter Acker and Mac McDuffie's Motion to Dismiss [6] is GRANTED;

IT IS FURTHER ORDERED that Plaintiff's Complaint [1-1] is DISMISSED, as follows:

- Plaintiff's claims under the Pennsylvania Constitution are dismissed, with prejudice;

- Plaintiff's claims for punitive damages against Mercer County Defendants in their official capacities are dismissed, with prejudice;
- Plaintiff's official capacity claims against Mercer County Defendants are dismissed. However, Plaintiff shall file an Amended Complaint, limited to identifying a proper Defendant against whom the policy claims can be properly asserted;
- Plaintiff's individual capacity claim against Mercer Defendant Acker is dismissed, with prejudice; and,
- For purposes of clarity, it is noted that Plaintiff's claim against Mercer Defendant McDuffie, in his individual capacity, remains.

IT IS FURTHER ORDERED that Plaintiff shall file an Amended Complaint by **February 28, 2025**;

FINALLY, IT IS ORDERED that this matter is referred back to the Magistrate Judge for further pretrial proceedings.

s/ Nora Barry Fischer
Nora Barry Fischer
Senior U.S. District Judge

cc/ecf: All counsel of record.

United States Magistrate Kezia O.L. Taylor